



Comptroller General
of the United States

(CORRECTED COPY)

Washington, D.C. 20548

Decision

Matter of: Triple Tool and Manufacturing Company, Inc.--
Reconsideration

File: B-233269.2

Date: November 8, 1989

DIGEST

Dismissal of protest for failure to timely file comments on agency report is affirmed, even though protester subsequently alleges late receipt of report, because protester failed to timely notify the General Accounting Office of its late receipt, despite notice of its responsibility in this regard.

DECISION

Triple Tool and Manufacturing Company, Inc., requests that we reconsider our December 15, 1988, dismissal of its protest against the award of contract No. DAAA09-89-C-0003, to Defense Research, Inc., by the Department of the Army. We dismissed the protest because Triple Tool failed to timely file its comments in response to the agency report or to provide any notice of its continued interest in the protest within 10 working days following receipt of the report.

We affirm the dismissal.

In its request for reconsideration, Triple Tool contends that it received the agency report after the date due and that it mailed its comments to our Office within 10 days of receiving the report. Triple Tool also alleges that its date for filing comments had been extended by an unnamed attorney in our Office.

The filing deadlines of our Bid Protest Regulations are prescribed under the authority of the Competition in Contracting Act of 1984; their purpose is to enable us to comply with the statute's mandate that we resolve bid protests expeditiously. 31 U.S.C. § 3554(a) (Supp. IV 1986); Honeywell, Inc.--Recon., B-229682.2, Feb. 10, 1988, 88-1 CPD ¶ 134. To avoid delay in the resolution of

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protests, the Bid Protest Regulations provide that the protester's failure to file comments within the 10-day period, or to file a statement requesting that the protest be decided on the existing record, or to request an extension of the period for submitting comments, will result in the dismissal of the protest. 4 C.F.R. § 21.3(k) (1989).

Furthermore, we inform the protester in our acknowledgment notice of the date on which the report is due and advise that our Office must be promptly notified if a copy of the report is not received on that date; otherwise, it will be assumed that the protester received its copy of the report on the same date we received ours. See Harrell-Patterson Contracting, Inc.--Request for Recon., 65 Comp. Gen. 330 (1986), 86-1 CPD ¶ 180. But for such a requirement, the protester could idly await a copy of the report for an indefinite time to the detriment of the protest system as well as our ability to resolve the protest expeditiously. Id.

We received the agency report on November 25. The protester's comments were due on December 9. Triple Tool did not notify us of its alleged late receipt of the report and its comments were not received by our Office until December 15. Since Triple Tool did not comply with the requirements of our Regulations, the dismissal of its protest is affirmed.

Triple Tool asserts that it filed its comments within the time allowed by an attorney in our Office. However, our records do not indicate that an extension of the time for filing comments was either requested or granted, and the attorney to whom the case was assigned confirms that he did not grant any extension. Under the circumstances, there is no basis to conclude that Triple Tool was granted an extension of time to file its comments.

Triple Tool also requests reimbursement for its bid preparation costs and for the cost of pursuing the protest, including attorneys' fees. However, since the protest was dismissed, Triple Tool is not entitled to recover its bid preparation costs or protest costs. Bachy/Bauer/Green Joint Venture, B-235950, Sept. 18, 1989, 89-2 CPD ¶ ____.

The dismissal is affirmed.


James F. Hinchman
General Counsel